

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :
:
V. : **CRIMINAL NUMBER 17-298-1**
:
JUAN CARLOS AGUILAR-GARCIA :

DEFENDANT'S SENTENCING MEMORANDUM

Juan Carlos Aguilar-Garcia, by and through his attorney, Maranna J. Meehan, Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, files this sentencing memorandum in aid of mitigation. The defense respectfully seeks a sentence of ten months which is a sentence at the low end of the advisory range.

The defense has no objections to the Presentence Investigation Report. The Report concludes the total adjusted offense level is level 10, Criminal History Category III with an advisory range of 10 to 16 months incarceration. (PSR ¶ 62). The defense respectfully suggests a sentence of 10 months is most appropriate for the numerous reasons stated herein.

On May 3, 2017, Immigration and Customs Enforcement agents paid a visit to Penn's Table Restaurant in West Chester, Pennsylvania. The agents had information that Mr. Aguilar was a restaurant employee. Upon arrival, agents met with Mr. Aguilar inside the restaurant and requested to speak with him. Mr. Aguilar willingly cooperated with agents. He gave the agents his true name and admitted he was in the country illegally. The agents arrested Mr. Aguilar outside Penn's Table without incident. He spent a month at York County Prison awaiting his initial appearance.

On June 1, 2017, Mr. Aguilar was indicted by a grand jury on one count of illegally reentry. He pled guilty pursuant to a written plea agreement two months later on August 2, 2017.

Sentencing is scheduled for November 15, 2017. At the time of sentencing, Mr. Aguilar will have been in custody for more than six months.¹

Mr. Aguilar is 33 years old. He was born and raised in the small town of Moyotepec Morelos in Mexico. His parents reside in Moyotepec Morelos. Mr. Aguilar has four siblings. Two of his siblings live in California, one resides in Pennsylvania and one sibling lives in Mexico.

Mr. Aguilar has been married to Edilia Alvarez for ten years. They have two children. Christian Aguilar is eight years old. Mr. Aguilar described his eight year old son as being very depressed and having difficulty in school since his father's arrest. Mr. Aguilar also has a three year old son, Athziry. His wife and children live in West Chester, Pennsylvania.

The separation and Mr. Aguilar's incarceration has been difficult for his wife and children. They have discussed the family moving to Mexico once Mr. Aguilar has been released and deported. Ms. Alvarez has applied for passports for her two children in order to facilitate the eventual move to Mexico.

Mr. Aguilar has an excellent work history. He first came to the United States at age sixteen to do farming in California. He returned to Mexico two years later but eventually returned to the United States. As noted in the PSR, he has been employed in the restaurant industry. Mr. Aguilar also has a seasonal landscaping job and worked at a pizzeria part time while working at Penn's Table (PSR ¶55). Although it is often difficult to verify employment in immigration cases, in this case, Mr. Aguilar was arrested at his place of employment. As noted in paragraph 54, Mr. Aguilar has been employed at Penn's Table for many years. He was first

¹ Ordinarily, the period of time a defendant spends in ICE custody, in this case, York County Prison does not automatically get credited toward the defendant's federal sentence. The USAO for this district has a policy to address this issue. In most cases, the assigned prosecutor contacts the Bureau of Prisons' designation and sentencing computation unit to advise the BOP of the date the defendant's case was accepted for prosecution.

hired more than fifteen years ago and worked there for six years until he was deported in 2006. He returned to the United States illegally in 2008 and was again hired at Penn's Table and worked there until his arrest in May, 2017. Clearly, Mr. Aguilar was a valued employee and Penn's Table evidently believed it was worth legal risks in re-hiring him.

The advisory range in this case is 10 to 16 months. A sentence above 10 months would be greater than necessary to accomplish the goals of sentencing.

This offense is a nonviolent offense. Mr. Aguilar does not have a significant criminal history which is one reason the government agreed to a fast track offer. Mr. Aguilar was last convicted of a crime, a misdemeanor offense, in 2007. This is a serious offense as is any federal offense. Defense counsel recognizes that border security is of great concern to the United States government. At the same time, Mr. Aguilar has been in the United States since 2008. He has no new arrests and was gainfully employed.

The defense also recognizes specific and general deterrence is of concern in immigration cases. Mr. Aguilar has not previously been prosecuted for an immigration offense. He now understands that he faces criminal charges and harsher penalties would be in store for him. The government has presumably determined that a fast track disposition in this case would serve as general deterrence. A sentence of ten months would be a guideline sentence, consistent with the factors of 18 U.S.C. §3553(a). The defense respectfully requests the Court impose a sentence of ten months with no supervision to follow, as supervision is discouraged in these cases pursuant to U.S.S.G. §5D1.1(c).

Respectfully submitted,

/s/ Maranna J. Meehan
MARANNA J. MEEHAN
Assistant Federal Defender

CERTIFICATE OF SERVICE

I, Maranna J. Meehan, Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, hereby certify that I have served copies of the Defendant's Sentencing Memorandum, by electronic notification or hand delivery to their office, upon Mark T. Sendek, Assistant United States Attorney, office located at 615 Chestnut Street, Suite 1250, Philadelphia, Pennsylvania 19106 and Brian B. Piskai, United States Probation Officer, United States Probation Office, 600 Arch Street, Suite 2400, Philadelphia, Pennsylvania 19106.

/s/ Maranna J. Meehan
MARANNA J. MEEHAN
Assistant Federal Defender

DATE: November 3, 2017